

**MINUTES
BOARD OF ADJUSTMENT
CITY HALL COUNCIL CHAMBERS
116 W. NEEDLES AVE.
BIXBY, OK 74008
July 06, 2015 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

ATTENDING:

See attached Sign-in Sheet

CALL TO ORDER

Meeting called to order by Chair Jeff Wilson at 6:00 PM.

ROLL CALL

Members Present: Larry Whiteley, Jeff Wilson, JR Donelson Murray King, and Darrell Mullins.

Members Absent: None.

MINUTES

1. Approval of Minutes for April 06, 2015

Chair Jeff Wilson introduced the item and asked to entertain a Motion. JR Donelson made a MOTION to APPROVE the Minutes of April 06, 2015 as presented by Staff. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Wilson, Donelson, Whiteley, & Mullins

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 5:0:0

2. Approval of Minutes for June 01, 2015

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Discussion ensued regarding which members were in attendance at that meeting.

After further discussion, Murray King made a MOTION to APPROVE the Minutes of June 01, 2015 as presented by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: King, Whiteley, & Mullins
NAY: None.
ABSTAIN: Donelson and Wilson.
MOTION CARRIED: 3:0:2

OLD BUSINESS

Chair Jeff Wilson asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS

3. **BBOA-601 – Roger H. Grant.** Discussion and possible action to approve a Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, located within the AG Agricultural District.
Property located: 15506 S. Harvard Ave.

Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Board of Adjustment
From: Erik Enyart, AICP, City Planner
Date: Thursday, July 02, 2015
RE: Report and Recommendations for:
BBOA-601 – Roger H. Grant

LOCATION: – 15506 S. Harvard Ave.
– Part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E
LOT SIZE: 5 acres, more or less
ZONING: AG Agricultural District
SUPPLEMENTAL None
ZONING:
REQUEST: Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District
SURROUNDING ZONING AND LAND USE:

North: AG & CS; The “Automotive Specialists” automotive repair business and a single-family house on 10 acres abutting subject property to the north; farther north are agricultural, vacant, and rural residential tracts along the west side of Harvard Ave., all zoned AG. There is an agricultural 1-acre tract at the southwest corner of 151st St. S. and Harvard Ave. zoned CS, and agricultural land containing approximately 40 acres of CS zoning at the southeast corner of 151st St. S. and Harvard Ave.

South: AG & RS-2; An automobile junkyard on a 5-acre tract zoned AG; farther south are agricultural, vacant, and rural residential tracts along both sides of Harvard Ave. zoned RS-2 and AG.

East: (Across Harvard Ave.) RS-2; Agricultural land including 26 acres belonging to Bixby Public Schools at the 15500:15600-block of S. Harvard Ave.

West: AG; Vacant/wooded and agricultural land, with rural residential to the northwest along 151st St. S.

COMPREHENSIVE PLAN: Corridor + Low Intensity/Development Sensitive + Vacant, Agricultural, Rural Residences, and Open Land

PREVIOUS/RELATED CASES: (not necessarily a complete list)

BBOA-182 – Paul Hughart – Request for Variance from the 300’ required lot width in the AG district for a then-20-acre tract, the S/2 SE/4 NE/4 of Section 20, T17N, R13E, addressed 15504 S. Harvard Ave., to allow a Lot-Split separating the S. 8.25’, which S. 8.25’ became part of the subject property – Applicant amended the request to only the south 10 acres – BOA Approved as modified 02/09/1987.

BL-120 – Paul Hughart – Request for Lot-Split for a 20-acre tract, the S/2 SE/4 NE/4 of Section 20, T17N, R13E, addressed 15504 S. Harvard Ave., to separate the S. 8.25’, which S. 8.25’ became part of the subject property – PC Denied 01/26/1987 and Conditionally Approved 02/23/1987.

BBOA-602 – Roger H. Grant – Request for Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building in the AG Agricultural District for subject property – Pending BOA consideration 07/06/2015.

RELEVANT AREA CASE HISTORY: (not necessarily a complete list)

BZ-75 – B. V. Blackburn for McRae Development Co. – Request for rezoning from AG to RS-1 for approximately 198.5 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – PC recommended Approval 01/29/1979 per approved Minutes but case notes state the PC “Denied” 01/29/1979. City Council action documentation not found.

BZ-128 – Lynn Burrow for D.A.L. Corporation / The Timbercrest Companies, Inc. – Request for rezoning from AG to RE and CS for approximately 318 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – Withdrawn December 1982.

BBOA-127 – Aubrey Miller – Request for Special Exception to allow a Use Unit 5 church in an AG district for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west) – BOA Conditionally Approved 05/14/1984.

BZ-154 – Charles E. Norman for D.A.L. Management Corporation Defined Pension Trust, et al. – Request for rezoning from AG to RS-3, RM-1, and CS for approximately 315 acres to the south and southeast of subject property in Sections 20 and 21, T17N, R13E – PC recommended Modified Approval for CS, RD, and RS-2 on 08/02/1984 and City Council Approved Modified zoning per the PC recommendation 08/14/1984 (Ord. # 508).

BZ-175 – Gerald Pope – Request for rezoning approximately 30 acres from AG to CS, the NW/4 NW/4 less the NW/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the north of the subject property – PC recommended Approval 06/30/1986 and City Council Approved 07/22/1986 (Ord. # 542).

BL-203 – Pastor Kevin Lewis for Midwest Agape Chapel, Inc. – Request for Lot-Split approval for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west), to separate the 3-acre tract from the north 250’, taken as right-of-way for State Highway 67 – PC Conditionally Approved 11/20/1995.

BZ-241 – George Suppes for Paul Hughart / Mike’s Lawn Service, Inc. – Request for rezoning approximately 5 acres from AG to CG, the S/2 S/2 S/2 SE/4 NE/4 of Section 20, T17N, R13E, for a

landscaping business, abutting subject property to the south – PC Tabled the application 07/20/1998 (no documentation found indicating appeal to the City Council).

BBOA-353 – Midwest Agape Chapel Foundation for Sitton Properties – Request for Variance to allow an outdoor advertising / billboard sign in a CS district for a 3-acre agricultural tract, the E/2 NE/4 NW/4 NW/4 of Section 21, T17N, R13E, located to the northeast of the subject property at the 3600-block of E. 151st St. S. (abuts New Beginnings Baptist Church to the west) – BOA Denied 02/07/2000.

BBOA-355 – New Beginnings Baptist Church – Request for Special Exception to allow a Use Unit 5 church in an AG district for 17-acre church property to the northeast of subject property at 4104 E. 151st St. S. – BOA Approved 03/06/2000.

PUD 41 – CedarCrest Business Park – Randall Pickard for Kevin Walsh – Request for rezoning from AG to CS and PUD 41 for a “CedarCrest Business Park” commercial and “office warehouse” development on an 8.32-acre tract to the northeast of subject property (abuts New Beginnings Baptist Church to the east) – PC Recommended Approval 06/20/2005 and City Council Approved 07/11/2005 (Ord. # 908).

BZ-324 – Jim Ham – Request for rezoning approximately 0.9 acres from AG to CG for commercial resale, located to the north of subject property at the southwest corner of the 151st St. S. and Harvard Ave. intersection – Applicant amended the request to CS zoning at the PC meeting on 01/16/2007 – PC recommended Approval of CS zoning 01/16/2007 and City Council Approved CS 02/12/2007 (Ord. # 959).

BBOA-522 – JR Donelson, Inc. for Bixby Public Schools – Request for Special Exception per Zoning Code Section 11-7A-2 Table 1 to allow a Use Unit 5 school facility, including a football field, in an RS-2 Residential Single Family District for 26 acres abutting subject property to the east at the 15500:15600-block of S. Harvard Ave. – BOA Approved 06/22/2010.

BBOA-523 – JR Donelson for Bixby Public Schools – Request for a temporary Variance from Zoning Code Section 11-10-4.H to allow a gravel parking lot and drives for the school football field facility in an RS-2 Residential Single Family District for 26 acres abutting subject property to the east at the 15500:15600-block of S. Harvard Ave. – BOA Conditionally Approved 09/07/2010.

BACKGROUND INFORMATION:

BBOA-601 and BBOA-602 have been filed pursuant to a code enforcement complaint filed against the property for operating a business without Zoning approval.

ANALYSIS:

Property Conditions. The subject property consists of two (2) tracts, both zoned AG Agricultural District:

1. The N/2 of the S/2 of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, containing 5 acres, more or less, and
2. The S. 8.25' of the N/2 of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, containing .250 acres, more or less.

The subject property is moderately sloped and appears to primarily drain to an upstream tributary of Posey Creek, which flows northerly through the west end of the subject property. A small part of the front/east end of the subject property appears to drain to Harvard Ave., which drains south via borrow ditches to another upstream tributary of Posey Creek. The property contains a single-family house and large accessory building behind/west of same, and is otherwise vacant/wooded and has some area toward the front which may be used for agriculture. Per the Tulsa County Assessor's parcel and aerial and GIS data, the accessory building measures 60' X 50' and contains 3,000 square feet.

There is a driveway along the south side of the property which provides access to the house and also to the 5-acre tract abutting to the south, which presently contains a storage building and a large number of junk automobiles, which automobiles are to be removed pursuant to an open code enforcement case.

Special Exception Request. The Applicant is requesting a Special Exception per Zoning Code Section 11-7A-3.A Table 2 to allow The RG Tool Company, www.rgfarriertool.com, a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for property located within the AG Agricultural District.

Zoning Code Section 11-2-1 defines “Home Occupation” thus:

“HOME OCCUPATION: That accessory use of a dwelling which constitutes some or all of the livelihood of a person living in the dwelling.”

Per the application and other information secured from the Applicant, Staff understands that the farrier tool assembly and online sales business home occupation is a relatively benign accessory use. See the attached narrative and photographs describing the scale and scope of activities.

Comprehensive Plan. The Comprehensive Plan designates the subject property as (1) Corridor, (2) Low Intensity/Development Sensitive, and (3) Vacant, Agricultural, Rural Residences, and Open Land. Staff believes that the proposed home occupation by Special Exception as an accessory use to the existing single-family dwelling should not be found inconsistent with the Comprehensive Plan.

Surrounding Zoning and Land Use Compatibility. Abutting the subject property to the north is the "Automotive Specialists" automotive repair business and a single-family house on 10 acres zoned AG. The automotive repair business is operating in violation of the Zoning Code, and is the subject of an open code enforcement case. Additional metal screening fencing has recently been installed between the subject property and the 10-acre tract. Farther north are agricultural, vacant, and rural residential tracts along the west side of Harvard Ave., all zoned AG. There is an agricultural 1-acre tract at the southwest corner of 151st St. S. and Harvard Ave. zoned CS, and agricultural land containing approximately 40 acres of CS zoning at the southeast corner of 151st St. S. and Harvard Ave.

Abutting the subject property to the south is a 5-acre tract zoned AG, which presently contains a storage building and a large number of junk automobiles, which automobiles are to be removed pursuant to another open code enforcement case. Farther south are agricultural, vacant, and rural residential tracts along both sides of Harvard Ave. zoned RS-2 and AG.

Since the nonresidential uses of the tracts abutting to the north and south are both the subject of code enforcement actions and will likely be vacated, these nonresidential uses should not logically be used to support the nonresidential character of the application.

Across Harvard Ave. to the east is agricultural land, including 26 acres belonging to Bixby Public Schools at the 15500:15600-block of S. Harvard Ave, zoned RS-2.

West of the subject property is vacant/wooded and agricultural land, with rural residential to the northwest along 151st St. S.

The City of Bixby does not see many applications for Special Exception for home occupations. The last one Staff was able to locate was BBOA-538 – Bill Bromley, a request for Special Exception per Zoning Code Section 11-7B-3.A Table 2 to allow internet retail sales and limited trade show sales as a home occupation in the RS-3 Residential Single Family District for Lot 7, Block 2, WoodCreek, addressed 11225 S. 73rd E. Ave. The Board of Adjustment Conditionally Approved that application on April 04, 2011. In that case, the Board ascertained from the Applicant at the meeting that "no sales would be conducted at the residence, but incidental storage of sale items may be involved. Mr. Bromley stated that there would be deliveries, but that they would be no different than normal [FedEx] or UPS deliveries and that there would not be many at a time." Staff also recalls testimony that there was occasional equipment assembly and maintenance included as a part of that case's accessory use. The Applicant had also submitted a narrative explaining how the "internet retail sales and limited trade show sales" would comply with all of the use conditions for a home occupation per Zoning Code Section 11-7B-5.B.

Recognizing the broad language used to define "Home Occupation" in Zoning Code Section 11-2-1 and the relative dearth of home occupation cases, the Board of Adjustment should approach such applications with caution and an eye for avoiding the establishment of unfortunate precedents.

Staff believes that the proposed farrier tool assembly and online sales business is materially similar to BBOA-538. However, Staff believes that the accessory use is relatively more intensive, and more intensive than most home occupations contemplated by the Zoning Code, and further may not be an appropriate home occupation in Residential zoning districts or neighborhoods.

Zoning Code Section 11-7B-5.B.9 provides:

"All business activities associated with a home occupation shall be conducted entirely within an enclosed structure, either within the primary dwelling unit or an accessory building on the same parcel in which the home occupation is conducted. A maximum limit of six hundred (600) square feet of floor area shall be allowed to be utilized for home occupation purposes in the RE and RS residential districts. A maximum limit of one thousand (1,000) square feet of floor area shall be allowed to be utilized for home occupation purposes in the AG agricultural district where the gross land area of the AG parcel in which the home occupation is conducted exceeds a minimum of one acre in physical land area size." (emphasis added).

It is clear, based on the above passage, that the Zoning Code intends greater flexibility be extended to properties zoned AG and of sufficient size (greater than 1 acre). The intent should be projected further onto the subject property and present application. Since the subject property is zoned AG, contains five (5) acres, and is in an exceptionally rural context presently, and since the locus of activity is within an accessory building behind the house and approximately 437' from the centerline of Harvard Ave., Staff believes that the more intensive form of home occupation presented in this application should be found acceptable in this case.

Based on the relatively benign nature of the home occupation activity and the Comprehensive Plan and surrounding zoning and land use patterns, Staff believes that the proposed farrier tool assembly and online sales business home occupation accessory use would be in harmony with the spirit and intent of the Zoning Code and would not be incompatible or inconsistent with surrounding zoning and land use patterns, injurious to the neighborhood, or otherwise detrimental to the public welfare, provided it maintains its residential character and complies with the use conditions of Zoning Code Section 11-7B-5.B.

Zoning Code Section 11-7B-5.B.9 provides that the Board of Adjustment, upon Special Exception approval, may grant an allowance of operating hours beyond 8:00 AM to 6:00 PM. Per a discussion with the Applicant on July 02, 2015, Staff understands that the tool assembly operations sometimes occur at varying hours of the day, and internet sales worldwide may occur at any time of day. Based on the characteristics of the proposed activity and the circumstances of the area, Staff has no objection to removing restrictions on hours of operation.

Staff Recommendation. *Unless constructive criticism from neighbors reveals need for additional approval conditions, for all the reasons outlined above, Staff recommends Approval subject to:*

- (1) The subject property shall maintain its residential character and the use shall maintain full compliance with the use conditions of Zoning Code Section 11-7B-5.B.*
- (2) The approval should be generally restricted to the scale and scope of business activities as outlined in the application. A radical departure or substantial increase in the scale or scope of the business, if and as may be determined by the Board of Adjustment at such future date, should require new Zoning approval as may then be required.*
- (3) The restrictions on hours of operation are suspended pursuant to Zoning Code Section 11-7B-5.B.9.*

Erik Enyart stated, pertaining to the third recommended Condition of Approval, that Roger Grant had said that he does his tool assembly work a various hours and sales occurred worldwide around the clock. Mr. Enyart stated that he had no objection to suspending the hours of operation, as he believed the use was fairly benign, and based on the context of the area.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant Roger Grant of 15506 S. Harvard Ave. was present and showed the farrier hammer and various constituent parts used to create the hammers. Larry Whiteley asked, and Mr. Grant stated that the hammers were used for shoeing horses.

JR Donelson confirmed with Roger Grant that he did not forge hammerheads. Mr. Grant stated that those are supplied by *Modern Investment [Casting Company]* of Ponca City. Mr. Donelson confirmed with Mr. Grant that he did not have retail sales of the hammers from the site. Mr. Grant stated that his website, developed by a company out of California, “makes it sound like [a] *GM [manufacturing plant]* back there.” Mr. Grant stated that he has three (3) customers in-state, and the rest are out.

Murray King asked how many employees he had, and Roger Grant stated, “Me.” Mr. Grant stated that he took the hammers up to *FedEx*. Mr. King confirmed with Mr. Grant that he did not have them picked up.

Larry Whiteley asked how long Roger Grant had been operating the business, and Mr. Grant responded eight (8) to 10 years.

Patrick Boulden asked Roger Grant if the business generated much noise, such as would disturb the peace of the neighbors. Mr. Grant indicated that the business was not too noisy, and that the belt sander made some noise, but that the greatest noise came when the phase converter turned on.

In response to a question, Roger Grant stated that the business occurred in the detached accessory building behind the house, and estimated that his house was 100 yards from Harvard Ave., and then another 85' to the building.

Patrick Boulden asked Roger Grant if he had had any [previous] complaints about the business, and Mr. Grant responded, "No."

Chair Jeff Wilson recognized Kevin Holland of 8209 S. New Haven Ave., Tulsa, from the Sign-In Sheet. Mr. Holland stated that he owned five (5) acres on the south side of the subject property, which was about the same size as the subject property. Mr. Holland stated that the driveway was shared between Roger Grant and himself, and was either 15' or 30' in width, each owner having ½ of the width. Mr. Holland stated that he had a 30' X 60' building in the back. Mr. Holland stated that his biggest issue was the liability that [approval] would bring. Mr. Holland stated that there were crew cab, dual-axle trucks coming into the property to [allow Roger Grant] to perform horse shoeing. Mr. Holland stated that they could not back out, and so would go onto his driveway. Mr. Holland complained about delivery trucks hitting the oak trees [along the shared driveway], and mailpersons damaging the driveway and fence. Mr. Holland complained about the condition and lack of maintenance of the driveway.

Erik Enyart addressed Chair Jeff Wilson and Kevin Holland and asked to clarify this matter. Mr. Enyart stated that, as for the shoeing of horses, the property was zoned AG Agricultural, so it was already zoned for this. Mr. Holland reiterated concerns previously expressed. Mr. Enyart continued that the shoeing of horses was already allowed, so the complaint about large trucks bringing in horse trailers [was not relevant]. Mr. Enyart stated that, secondly, the two (2) owners evidently shared the driveway, but the City did not have information on arrangements, easements, or rights-of-way, and the private access issue was between the two (2) private parties and not a matter before the Board of Adjustment for consideration. Mr. Holland continued to express concern over large vehicles damaging the driveway, overhead wires, and other structures attending the driveway.

A Board member asked Kevin Holland what he used his property for, and Mr. Holland responded that [the grass] was grown up on [the front of the lot], and he was trying to get someone to bale the hay. Mr. Holland expressed concern for liability, and suggested a horse could get away and come on his property, step in a gopher hole, and get hurt, or young children could get run over, and if they got run over, "I'm liable." A Board member discussed liability insurance with Mr. Holland.

Larry Whiteley discussed driveway matters with Kevin Holland. Mr. Whiteley suggested Mr. Holland could put up a fence.

Kevin Holland stated that he did not have a problem with Roger Grant assembling hammers, and that his only concern was for liability.

Larry Whiteley suggested Mr. Holland could put up a fence and gate, and Mr. Holland indicated agreement.

Kevin Holland expressed concern for activities occurring outside the building. Erik Enyart asked Mr. Holland what outdoor activities he was referring to, and Mr. Holland responded, "Shoeing horses." Mr. Enyart stated that the property was already zoned for shoeing horses, and that shoeing horses was not before the Board for consideration.

Patrick Boulden asked Kevin Holland if his main concern was not actually the delivery of parts, and Mr. Holland indicated agreement.

Chair Jeff Wilson recognized Noelle Waller of 3127 E. 161st St. S. from the Sign-In Sheet. Ms. Waller stated that she had horses that [Roger Grant] had shod for her, and that he was a good farrier. Ms. Waller stated that she had rescue horses, and even then they are unlikely to run [because Mr. Grant is a good farrier]. Ms. Waller stated that [Mr. Grant's business] has no noise or increase in traffic. Ms. Waller stated, "We can see straight into the property from ours," and it "doesn't seem to be causing" any problems. Ms. Waller stated that [the situation] seemed to be a personal issue.

Chair Jeff Wilson recognized Donald Waller of 3127 E. 161st St. S. from the Sign-In Sheet. Mr. Waller approached the dais and, on his large cellphone, showed the Board members an aerial photograph of the subject property and the Kevin Holland property to the south, both of which he identified. A Board member noted that the Kevin Holland property [resembled an automobile] "salvage," and asked Mr. Holland if he was salvaging cars. Mr. Holland responded, "No, I don't. I work on cars." JR Donelson estimated there were about 50 cars in the aerial photograph. Mr. Holland stated that there were not that many. Mr. Donelson stated that he stopped counting at 30 and there were probably 20 more he didn't count. Mr. Holland stated that these were his "personal stuff." Mr. Donelson asked Mr. Holland if he used the common road [to transport cars], and Mr. Holland responded "Yes, but mostly on mine."

Roger Grant stated that the "road" had already been put in when he bought his property from Bill Hughart, and that the "road" comes into the property on his property. Mr. Grant and Kevin Holland were both asked, in turn, if the "road" was there when they bought their properties, and both responded "Yes" in turn.

Patrick Boulden stated that the driveway "issue is a distraction."

Roger Grant stated that there were no semi[-tractor trailers] [entering the property as a part of his tool business, but rather] UPS "box trucks," which delivered hammerheads once or twice a year.

Darrell Mullins stated that this was “not pertinent to us.”

Larry Whiteley and other Board members clarified with Erik Enyart that the final recommended Condition of Approval in the Staff Report granted a suspension of the restriction on hours of operation.

There being no further discussion, JR Donelson made a MOTION to APPROVE BBOA-601 with the Conditions of Approval as recommended by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

| | |
|-----------------|---|
| AYE: | King, Wilson, Donelson, Whiteley, & Mullins |
| NAY: | None. |
| ABSTAIN: | None. |
| MOTION CARRIED: | 5:0:0 |

4. **BBOA-602 – Roger H. Grant.** Discussion and possible action to approve a Variance from Zoning Code Sections 11-2-1 and 11-7B-5.B to allow to allow a farrier hammer and tools assembly, online sales, and related activities as a home occupation within a detached accessory building for part of the S/2 of the SE/4 of the NE/4 of Section 20, T17N, R13E, located within the AG Agricultural District.
Property located: 15506 S. Harvard Ave.

Chair Jeff Wilson introduced the item. Erik Enyart stated that, when he was first approached about this issue, he read the definition of Home Occupation in the Zoning Code, which stated that the home occupation was to occur within the house. Mr. Enyart stated that, based on this, he advised the Applicant that a Variance was also required to be permitted to maintain the home occupation business in an accessory building. Mr. Enyart stated that, when he examined the other part of the Zoning Code pertaining to this, he discovered that it provided that the home occupation could occur within an accessory building. Mr. Enyart stated that he believed that discrepancies should be interpreted based on the most flexible interpretation. Mr. Enyart advised the Board that it could Table the application and the City would issue the Applicant a refund of fees.

Larry Whiteley made a MOTION to TABLE BBOA-602 as recommended by Staff. Darrell Mullins SECONDED the Motion. Roll was called:

ROLL CALL:

| | |
|-----------------|---|
| AYE: | King, Wilson, Donelson, Whiteley, & Mullins |
| NAY: | None. |
| ABSTAIN: | None. |
| MOTION CARRIED: | 5:0:0 |

ADJOURNMENT

Larry Whiteley made a MOTION to ADJOURN. Murray King SECONDED the Motion. Roll was called:

ROLL CALL:

| | |
|-----------------|---|
| AYE: | King, Wilson, Donelson, Whiteley, & Mullins |
| NAY: | None. |
| ABSTAIN: | None. |
| MOTION CARRIED: | 5:0:0 |

Meeting was Adjourned at 6:40 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary